

Agenda Item No. 4.1
For Agenda of May 8, 2007



Tigard City Council Meeting Minutes

Date: March 27, 2007
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard
Tigard, Oregon

Attending: Mayor Craig Dirksen Presiding
Councilor Gretchen Buehner
Councilor Sydney Sherwood

Absent: Councilor Sally Harding
Councilor Tom Woodruff

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| Study Session | Called to order by Mayor Dirksen. | |
| Update on Passport Acceptance Agency Activity | City Manager Prosser advised of recent increase in the numbers of people applying for passports, likely because it is spring vacation week. City of Beaverton was so busy, they were sending passport business to Tigard. | |
| Reviewed Proposed Paid Time Off Policy of Management Group Employees | <p>Human Resources Director Zodrow presented the proposed policy with the City Council. She reviewed background information with the Council and successful implementation of similar policies in other cities. The plan would be to allot a number of hours each pay period into a paid-time off (PTO) account for each management employee. The PTO account would consist of what is now allocated for vacation, management leave, and a portion of sick leave. There would also be a medical leave bank. For short periods of unscheduled leave, such as a day or two of sick leave, the employee would take this time from their PTO account. For a longer illness the time off would come from their medical leave account.</p> <p>City of Tigard supervisors are supportive. Other employers who have used this system have reported a 28-30 percent reduction in unscheduled leaves.</p> <p>Other discussion points for this topic included:</p> | |

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| | <ul style="list-style-type: none"> ♦ PTO reduces the “sick leave entitlement mentality.” ♦ Employees may use the PTO bank for doctor appointments; no need to use sick leave ♦ PTO gives employees control and flexibility. ♦ PTO is well regarded and can be used as an employee recruitment and retention tool. ♦ Proposal represents no change in current accruals. ♦ PTO is valued by high performers and self-motivators. ♦ At separation of service, PTO is paid to the employee. ♦ Employees who have higher balances in their sick leave accounts will be able to convert a portion to their PTO account when the new program is implemented. ♦ There is a potential negative effect for some PERS employees; therefore, they will have a one-time option (if the program is implemented July 1) to remain on the old vacation/sick leave accrual system. ♦ PTO will not be for SEIU or TPOA employees as this is a program that must be negotiated. ♦ The cap on the number of hours that can be accrued has been raised proportionately because management leave and a portion of sick leave will be deposited in the PTO accounts. <p>There was discussion on when an employee could access their sick leave – after one day of unscheduled leave or two. Consensus was for two days.</p> <p>City Manager Prosser advised that supervisors have been doing a good job in making headway in reducing unscheduled leave. This takes a lot of time and effort.</p> <p>Council members present indicated support for the PTO program. Human Resources Director Zodrow advised she would place this on the April 10 Consent Agenda for City Council consideration.</p> <p>City Manager Prosser referred to his employment agreement and said he was not sure if this would be</p> | |

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| | available to him. | |
| Ethics Training | <p>City Attorney Ramis reviewed Ethics as it pertains to elected officials. He noted there are 16 bills under consideration at the Legislature this session relating to Ethics.</p> <p>He reviewed key principles of Ethics for:</p> <ol style="list-style-type: none"> 1. Potential conflicts 2. Actual conflicts 3. Exceptions (instances where you can vote if you have an actual conflict; i.e., non-profit organizations and class exemption) <p>City Attorney Ramis reviewed a recent shift by the Oregon Government Standards and Practices Commission (OGSPC) when considering whether a conflict of interest exists to those situations whereby the <i>appearance</i> of fairness should exist. He advised Council members should not rely on “class exemption” for land use issues due to recent rulings by OGSPC.</p> <p>Attorneys’ fees are paid by the City to represent and advise a City official before the OGSPC if the official prevails; however, if an ethics violation has been determined by the OGSPC, the official must pay the attorneys’ fees.</p> | |
| Executive Session | <p>The Tigard City Council went into Executive Session at 6:57 p.m. to discuss pending litigation with legal counsel under ORS 192.660(2)(h).</p> <p>Executive Session concluded at 7:19 p.m.</p> | |
| Business Meeting | <ol style="list-style-type: none"> 1.1 Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 7:30 p.m. 1.2 Council Present: Mayor Dirksen, Councilors Buehner, and Sherwood. 1.3 Pledge of Allegiance 1.4 Council Communications & Liaison Reports: None | |

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| | 1.5 Call to Council and Staff for Non-Agenda Items: None | |
| 2. Proclamation | Mayor Dirksen proclaimed the following: <ul style="list-style-type: none"> ♦ April 4, 2007 as Arbor Day ♦ April 9-15 and National Community Development Week | |
| 3. Citizen Communication | No testimony. City Manager Prosser reported on follow-up to Citizen Communication from the March 13, 2007 City Council meeting. Mr. John Skourtes brought his concerns to the City Council regarding the plans by TriMet to disallow left turns onto 74 th Avenue going west on Bonita Road when the commuter rail is operational. Staff has drafted a letter to Oregon Department of Transportation – Rail to determine if other options are possible. | |
| 4. Consent Agenda | <p>4.1 Approve Council Minutes for February 20, 2007</p> <p>4.2 Appoint Jason Ashley, Scott Bernhard, Kim Leinberger and Jason Rogers as Members, and Appointing Vernon Cooke as an Alternate Member, to the Park and Recreation Advisory Board – Resolution No. 07-14</p> <p>A RESOLUTION APPOINTING JASON ASHLEY, SCOTT BERNHARD, KIM LEINBERGER AND JASON ROGERS AS MEMBERS, AND APPOINTING VERNON COOKE AS AN ALTERNATE MEMBER, TO THE PARK AND RECREATION ADVISORY BOARD</p> <p>4.3 Appoint Matthew Muldoon, Karen Fishel, and Stuart Hasman as Voting Members to the Planning Commission, and Appointing Sondra Carroll as an alternate to the Planning Commission – Resolution No. 07-15</p> <p>A RESOLUTION APPOINTING MATTHEW MULDOON, KAREN FISHEL, AND STUART HASMAN AS VOTING</p> | <p>Motion by Councilor Sherwood, seconded by Councilor Buehner, to approve the Consent Agenda</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Buehner Yes Councilor Sherwood Yes</p> |

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| | <p>MEMBERS TO THE PLANNING COMMISSION, AND APPOINTING SONDRA CARROLL AS AN ALTERNATE TO THE PLANNING COMMISSION</p> <p>4.4 Approve Settlement Agreement to Resolve Measure 37 Claims (M372006-00009 and M372006-00008 – Pascuzzi)</p> <p>4.5 Authorize the Submittal of a Transportation and Growth Management (TGM) Grant Application for the Preparation of a Multi-Modal Pathway Plan – Resolution No. 07-16</p> <p>A RESOLUTION AUTHORIZING THE SUBMITTAL OF A TRANSPORTATION GROWTH MANAGEMENT PROGRAM GRANT PROPOSAL TO FINANCE A MULTI-MODAL PATHWAYS PLAN</p> <p>4.6 Endorse the Submittal of a Transportation and Growth Management (TGM) Grant Application for Updating the Tigard Transportation System Plan (TSP) – Resolution No. 07-17</p> <p>A RESOLUTION SUPPORTING A TRANSPORTATION AND GROWTH MANAGEMENT GRANT APPLICATION FOR THE TIGARD TRANSPORTATION SYSTEM PLAN UPDATE</p> <p>4.7 Local Contract Review Board:</p> <ul style="list-style-type: none"> a. Award the Contract for the Construction Phase of the Water Building Renovation to Centrex Construction, Inc. and Authorize Staff to Complete and Execute the Contract b. Award Contract for Bulk Mailing Services to Bend Mailing Services and Authorize Staff to Take all Necessary Steps to Execute the Agreement | |
| <p>5. Consider Jaywalking Ordinance – Add a New</p> | <p>Police Chief Dickinson introduced this agenda item.</p> <p>Police Officer Erickson presented the staff report noting the purpose of the ordinance was to enhance</p> | <p>Motion by Councilor Sherwood, seconded by Councilor Buehner, to adopt Ordinance No. 07-02.</p> |

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| <p>Section to the Tigard Municipal Code (10.32.235)</p> | <p>safety through the reduction of cars vs. pedestrian accidents. He said there have been 36 pedestrian/vehicle accidents in the last two years and, notably, ten of those have occurred within the last ten months. Officer Erickson reviewed some of the wording contained in the ordinance.</p> <p>Police Chief Dickinson said the ordinance was written so it is easy to understand and will be used to educate the public for safe practices.</p> <p>Mayor Dirksen commented that he was surprised the City did not already have such an ordinance in place. He noted his support for this ordinance with the goal to improve safety.</p> <p>Councilor Sherwood noted her support of the ordinance with emphasis being placed on public safety education.</p> <p>The City Council then considered the following ordinance:</p> <p>ORDINANCE NO. 07-02 – AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE BY ADDING A NEW SECTION 10.32.235 REGARDING USE OF CROSS WALKS (JAYWALKING)</p> | <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Buehner Yes Councilor Sherwood Yes</p> |
| <p>6. Consider an Ordinance to Regulate Graffiti – Add Section 7.40.125 and Amend Section 1.16.030 of the Tigard Municipal Code</p> | <p>Police Chief Dickinson introduced this agenda item.</p> <p>Community Services Officer McMahan presented the staff report. A copy of the presentation viewed by the City Council is on file with the City Recorder.</p> <p>Police Chief Dickinson noted the need to urge immediate clean up of graffiti for the benefit of the community.</p> <p>Mayor Dirksen noted the ordinance does not address graffiti; rather, it is a response on how to deal with the graffiti. The purpose of the ordinance is to encourage compliance and provides a procedure for graffiti removal.</p> <p>The City Council considered the proposed</p> | <p>Motion by Councilor Buehner, seconded by Councilor Sherwood, to adopt Ordinance No. 07-03.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Buehner Yes Councilor Sherwood Yes</p> |

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| | <p>ordinance:</p> <p>ORDINANCE NO. 07-03 – AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE TO ADD SECTION 7.40.125 AND AMENDING SECTION 1.16.030 FOR THE REGULATION OF GRAFFITI IN PUBLIC PLACES</p> | |
| <p>7. Measure 37 Claim Hearing (Quasi-Judicial) – Lanphere Enterprises, Inc. (M372006- 00003)</p> | <p><u>Attorney Statement on Procedure for Hearing</u> City Attorney Ramis read a statement regarding the procedures to be followed for this hearing.</p> <p><u>Public Hearing Opened</u> Mayor Dirksen opened the public hearing.</p> <p><u>Declarations or Challenges</u> Mayor Dirksen called for declarations or challenges. Councilor Sherwood and Councilor Buehner advised they have driven by the site; Mayor Dirksen advised he has visited the site. There were no challenges pertaining to the Council's jurisdiction to hear the matter or on the participation of any member of the Council.</p> <p><u>Staff Report Presented</u> Associate Planner Caines presented the staff report:</p> <ul style="list-style-type: none"> ◆ Claimant – Lanphere Enterprises and claims City zoning has restricted the use and reduced the value of the property. ◆ Site is located at 10380 SW Cascade Avenue and is developed with a motorcycle/light equipment sales and repair business. ◆ Current zoning is Mixed-Use Commercial. ◆ Property was acquired by the claimant on March 26, 1992. Zoning at that time was Industrial Park and sales and equipment of light equipment was a permitted use with the I-P zone. Under current zoning, vehicle sales are only permitted as an accessory use to a permitted use and vehicle repairs are not permitted. The existing use is considered a non-conforming use. ◆ Claimant is stating compensation in the amount of \$1,404,810. No supporting documentation was provided with the claim, but the claimant's | <p>Motion by Councilor Buehner, seconded by Councilor Sherwood, to adopt Ordinance No. 07-04, as amended.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Buehner Yes Councilor Sherwood Yes</p> |

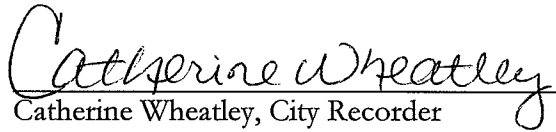
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| | <p>representative noted that an appraisal can be provided. The claimant prefers that a waiver of the land use regulations be granted so expansion of the existing use can occur.</p> <ul style="list-style-type: none"> ◆ No specific development plan was submitted with the application so it is not known what sort of expansion the claimant might propose in the future. Staff compared requirements of the Development Code regulations in place on March 26, 1992 with the current regulations; details are contained in the written staff report on file in the City Recorder's office. ◆ City Council was asked to decide whether to deny the claim, pay the claim or waive the regulations. <p><u>Staff Recommendation</u> Grant the waiver that shall run with the person, not the land. Further the exemption shall be specific to those standards dealing with Washington Square Regional Center, expansion of existing uses, off-street parking minimum and maximums, and commercial zoning districts. Site Development Review, under the zoning and land use regulations in effect on March 26, 1992, would be required.</p> <p><u>Public Testimony</u> Steve Morasch, 700 Washington Street, Suite 701, Vancouver, WA 98660 presented testimony as a representative of the claimant. He said the claimant supported the ordinance as proposed.</p> <p>In response to a question from Councilor Buehner, Mr. Morasch said would like to expand their business at this location and, specifically, were looking to a change in the floor area ratio (FAR) requirements.</p> <p>Robert E. Ruedy, 14185 SW 100th Avenue, submitted a written statement dated March 27, 2007; a copy of this statement is on file in the City Recorder's office. Mr. Ruedy said he extends his support to Measure 37 claimants.</p> <p><u>Rebuttal</u> Mr. Morasch advised he had no rebuttal statements.</p> | |

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| | <p>He commented that his client's would make the project a "beautiful one."</p> <p><u>Council Comments</u> Councilor Buehner and Councilor Sherwood indicated that they could support the proposed ordinance, noting the impact of the request would not be that significant.</p> <p>Mayor Dirksen said that, while he was reluctant to waive the current Code provisions, Measure 37 is very clear with regard to property owners and land use regulations that are to be applicable when the property is purchased. Mayor Dirksen added that he also thought the differences between the previous and current code provisions were slight.</p> <p>City Attorney Ramis said the ordinance should indicate that the waiver is granted to the extent permitted by state law. The ordinance language should be amended. (This language was added to the title of the ordinance.)</p> <p><u>Council Consideration</u> ORDINANCE NO. 07-04 – AN ORDINANCE ADOPTING FINDINGS TO GRANT A BALLOT MEASURE 37 WAIVER OF THE TIGARD DEVELOPMENT CODE MAKING SALES, SERVICE AND REPAIRS OF AUTOMOBILES, MOTORCYCLES AND OTHER LIGHT VEHICLES A NON-CONFORMING USE FOR THE 2.15 ACRES ON CASCADE BOULEVARD, SOUTH OF HIGHWAY 217 (WCTM 1S135BA, TAX LOT 02800) AND ALLOW EXPANSION OF THE USE UNDER THE TIGARD DEVELOPMENT CODE IN PLACE AT THE TIME THE PROPERTY WAS ACQUIRED BY LANPHERE ENTERPRISES, INC. (MARCH 26, 1992) SUBJECT TO APPLYING FOR AND RECEIVING SITE DEVELOPMENT REVIEW APPROVAL (M372006-003); TO THE EXTENT PERMITTED BY STATE LAW.</p> | |

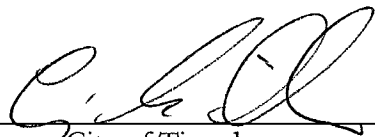
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| <p>8. Measure 37 Claim Hearing (Quasi-Judicial) – Shilo Inn/Cascade Hotel Corporation, Inc. (M372006- 00005)</p> | <p><u>Attorney Statement on Procedure for Hearing</u> City Attorney Ramis read a statement regarding the procedures to be followed for this hearing.</p> <p><u>Declarations or Challenges</u> None</p> <p><u>Public Hearing Opened</u> Mayor Dirksen opened the public hearing.</p> <p><u>Staff Report Presented</u> Associate Planner Caines presented the staff report:</p> <ul style="list-style-type: none"> ◆ Claimant is Mark Hemstreet, Shilo Inn Washington Square LLC and Cascade Hotel Corporation requesting waiver of all zoning and development codes that are more restrictive than those in effect on the date of property acquisition. Similarly, a waiver is requested to any restrictive provisions of the Comprehensive Plan. ◆ The site is located at 10830 SW Greenburg Road and is developed with a hotel, the Shilo Inn. ◆ The property was originally leased by Mr. Hemstreet in 1984, but the current lease including all three claimants was recorded on March 19, 2007. The City's legal counsel advised this is a transfer of interest in the ground lease and, therefore, waiver should be to the later date in 2007. ◆ Current owners were named. The City requires that all owners must sign the application form or a waiver if compensation is not sought. No signatures or waivers from the owners were provided. A letter (on file in the City Recorder's office, marked Exhibit B) was sent to the claimant's representative (Jordan Schrader, Attorney) requesting this information; no response has been received. ◆ Current zoning is Mixed Use Commercial, but was General Commercial in 2007. Commercial lodging was and is a permitted use on this site. ◆ The claimant is stating a compensation amount of \$154,000. No supporting documentation was provided with the claim, but the claimant's representative reserved the right to supplement | <p>Motion by Mayor Dirksen, seconded by Councilor Buehner, to continue the hearing to May 22, 2007.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Buehner Yes Councilor Sherwood Yes</p> |

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| | <p>the claim with additional information.</p> <ul style="list-style-type: none"> ♦ No specific development plan was submitted with the application and, therefore, it is not known what sort of changes the claimant might be proposing in the future. Staff reviewed the development code regulations in place on March 19, 1997 and compared those with the current regulations; details are contained in the written staff report on file in the City Recorder's office. ♦ City Council will be asked to decide whether to deny the claim, pay the claim or waive the regulations. ♦ The applicant has requested a continuance of the hearing. <p><u>Public Testimony</u></p> <p>Gene Davis, 10875 SW 89th Avenue, Tigard, Oregon testified that he owns property "on the same site." He has a hearing coming up for a similar situation. Mr. Davis advised he is in agreement with the staff report.</p> <p>Robert E. Ruedy, 14185 SW 100th Avenue, reiterated his support for Measure 37 claimants. He submitted a written statement dated March 27, 2007; a copy of this statement is on file in the City Recorder's office.</p> <p><u>Consideration of Request for Continuance</u></p> <p>Council considered and approved a continuance of the hearing to May 22, 2007.</p> <p>City Attorney Ramis advised that because the claimants have requested an extension of the time deadline, additional public testimony can be taken by the City Council. He further advised that since the matter has been continued, the public should avoid ex parte contact with the Mayor and City Council.</p> | |
| Adjournment | The meeting adjourned at 8:25 p.m. | Motion by Councilor Sherwood, seconded by Councilor Buehner, to adjourn the meeting. |

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| | | <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Buehner Yes Councilor Sherwood Yes</p> |


Catherine Wheatley, City Recorder

Attest:



Mayor, City of Tigard

Date: 5-8-07